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COMMISSION ON HUMAN RIGHTS
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Agenda item 11

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Australia, Austria, Bulgaria, Cameroon, Canada, Costa Rica, Czech Republic*, Finland, Germany, Latvia*, Madagascar*, Netherlands, Norway*, Poland, Russian Federation, Slovakia* and Sweden*: draft resolution

The protection of human rights in the context of human immuno-deficiency virus (HIV) and acquired immune deficiency syndrome (AIDS)

The Commission on Human Rights,

Convinced that HIV/AIDS-related discrimination is a contravention of the fundamental principle of non-discrimination as reaffirmed in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling General Assembly resolutions 46/203 of 20 December 1991 and 45/187 of 21 December 1990, Economic and Social Council resolution 1990/86 of 27 July 1990, World Health Assembly resolutions WHA41.24 of 13 May 1988, WHA43.10 of 16 May 1990, WHA45.35 of 14 May 1992 and WHA46.37 of ... May 1993, general recommendation 15 of the Committee on the Elimination of Discrimination against women and other relevant resolutions and decisions adopted by organizations of the United Nations system, as well as by other competent forums,

Recalling its resolution 1990/65 of 7 March 1990, in which it endorsed the appointment by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of Mr. Luis Varela Quirós to undertake a study on problems and causes of discrimination against people infected with HIV or people with AIDS, and its resolutions 1992/56 of 3 March 1992 and 1993/53 of 9 March 1993 concerning discrimination against people with HIV infection or AIDS,

Acknowledging the significant role of the World Health Organization, within the framework of the global strategy for the prevention and control of AIDS, in combating discrimination against HIV-infected persons, including people with AIDS,

Recognizing the major contribution made by national and international non-governmental organizations in particular organizations of people with HIV/AIDS, and the International Federation of Red Cross and Red Crescent Societies in fighting discrimination against and advocating the rights of people living with HIV/AIDS,

Noting with appreciation the Rights and Humanity Declaration and Charter on HIV and AIDS, transmitted to the Commission at its forty-eighth session by the Permanent Mission of the Gambia to the United Nations (E/CN.4/1992/82),

Recognizing that the challenges presented by HIV/AIDS require renewed efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all,

Concerned that lack of full enjoyment of their fundamental rights by persons suffering from economic, social or legal disadvantage heightens their vulnerability to the risk of HIV infection,

Noting that, according to a report submitted to the Commission on the Status of Women at its thirty-third session (E/CN.6/1989/6/Add.1), women are especially vulnerable to the risk of HIV infection and to the economic and social impact of AIDS as a result of their disadvantageous legal, social and economic status,

Alarmed at discriminatory laws and policies and the emergence of new forms of discriminatory practices which deny people with HIV infection or AIDS, their families and associates enjoyment of their fundamental rights and freedoms,

Concerned that the fear and ignorance surrounding AIDS are leading to increased stigmatization of and prejudice against people with HIV/AIDS or presumed to be at risk of infection, sometimes resulting in intimidation, harassment or violence against such individuals, as well as to arbitrary detention and deportation,

Bearing in mind that, as recognized by the World Health Assembly in its resolution WHA45.35, there is no public health rationale for any measures that limit the rights of the individual, notably measures establishing mandatory screening,

Recognizing that anti-discrimination measures form a component part of an effective public health strategy,

Stressing that discrimination and stigmatization are counter-productive to measures to prevent and control HIV/AIDS,

Emphasizing the responsibility of Governments, in a spirit of human solidarity and tolerance, to counter social stigmatization of and discrimination against those affected by HIV/AIDS, their families and those with whom they live, and people considered to be at risk of infection,

1. Calls upon all States to ensure that their laws, policies and practices, including those introduced in the context of HIV/AIDS, respect human rights standards and do not have the effect of inhibiting programmes for the prevention of HIV/AIDS and for the case of persons infected with HIV/AIDS;

2. Also calls upon all States to take all the necessary steps, including appropriate and speedy redress procedures, to ensure the full enjoyment of civil, political, economic, social and cultural rights by people with HIV/AIDS, their families and those in any way associated with them, and people presumed to be at

risk of infection, with particular attention to women, children and vulnerable groups, in order to prevent discriminatory action against them or their social stigmatization, and to ensure their access to the necessary care and support;

3. Urges all States to include in their AIDS programmes measures to combat social stigmatization, discrimination and violence directed against persons with HIV/AIDS, and to take the necessary steps to develop the supportive social environment necessary for the effective prevention and care of AIDS;

4. Also urges all States to review their legislation and practice to ensure the right to privacy and integrity of persons with HIV/AIDS and those presumed to be at risk of infection;

5. Invites the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and other similar bodies to give full attention to monitoring States parties' compliance with their commitments under the relevant human rights instruments regarding the rights of people infected with HIV/AIDS, their families and people with whom they live, or people presumed to be at risk of infection;

6. Urges relevant working groups and special rapporteurs to consider in their reports the impact of HIV/AIDS on the enjoyment of human rights;

7. Welcomes the preliminary, progress and final reports of Mr. Luis Varela Quirós, Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1990/9, E/CN.4/Sub.2/1991/10, E/CN.4/Sub.2/1992/10 and E/CN.4/Sub.2/1993/9), and requests the Secretary-General to bring these reports to the attention of the relevant bodies of the United Nations system, specialized agencies, working groups and special rapporteurs, as well as to the human rights treaty bodies, the World Bank and other relevant financial institutions, and those concerned with the status of women;

8. Also welcomes resolution EB93.R5 of 21 January 1994 adopted by the Executive Board of the World Health Organization, in which the Executive Board recommended the development and eventual establishment of a joint and co-sponsored United Nations programme on HIV/AIDS and urged that human rights concerns be incorporated into the strategies implementing the new programme;

9. Expresses its grave concern about the risk which the continuing exploitation of children and child prostitution pose for the transmission of HIV, and calls upon the Special Rapporteur on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child and the Working Group on Contemporary Forms of Slavery to pay sustained attention to this question;

10. Calls upon relevant professional bodies to re-examine their codes of professional practice with the view of strengthening respect for human rights and dignity in the context of HIV/AIDS, and calls upon the relevant authorities to develop training in this regard;

11. Requests the Secretary-General to prepare for the consideration of the Commission at its fifty-first session a report on international and domestic measures taken to protect human rights and prevent discrimination in the context of HIV/AIDS and to make appropriate recommendations thereon.